

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION**

SLF NO. 1, LLC d/b/a WYNDRIDGE)	
HEALTH & REHABILITATION CENTER)	
)	
v.)	No. 2:12-00070
)	Judge Sharp
UNITED HEALTHCARE SERVICES, INC.,)	
UNITED HEALTHCARE SERVICE, LLC,)	
and ESTATE OF LUCILLE STITES,)	
)	
Defendants.)	


ORDER

In the relatively short time since this case was removed from state court, it has developed a somewhat tortured procedural history. Upon removal, Defendant moved to dismiss asserting that all of Plaintiff's claims were completely preempted by the Employee Retirement Income Security Act of 1974. In response, Plaintiff filed a Motion for Leave to Amend Complaint, as well as a response to the Motion to Dismiss in which it argued that the Complaint asserted a cognizable claim under ERISA, and that it should be allowed to amend the complaint to specifically allege ERISA claims. In response, Defendant opposed the Motion to Amend, arguing that because the Complaint as filed did not state an ERISA claim, the Court should grant Defendant's Motion to Dismiss and give Plaintiff leave to file an amended complaint containing only ERISA claims. This prompted Plaintiff to file an Amended Complaint (containing both state law and ERISA claims) while its request for leave to do so was still pending, which, in turn prompted Defendant to file a Motion to Dismiss or Strike. The obligatory response and reply followed thereafter.

The Court need not wade through this procedural thicket any further. The Motion for Leave to Amend Complaint (Docket No. 15) is hereby GRANTED and Defendant's Motions to Dismiss

and/or Strike (Docket Nos. 5 & 24) are hereby DENIED. Said denial is without prejudice to Defendant filing a Motion to Dismiss directed at the Complaint as amended. Any such motion shall be filed within thirty (30) days of the date of entry of this Order.

It is SO ORDERED.



KEVIN H. SHARP
UNITED STATES DISTRICT JUDGE